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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,545	03/28/2001	Ron H. Niswander	43050	5242

7590 08/24/2005

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EXAMINER

KUHNS, ALLAN R

ART UNIT PAPER NUMBER

1732

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/762,545

**Applicant(s)**

NISWANDER, RON H.

**Examiner**

Allan Kuhns

**Art Unit**

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 16-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

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1. After reconsidering applicant's arguments concerning the Horn and Slocum references, the examiner is withdrawing the rejections based on those references in favor of a new ground of rejection.

2. It appears that "an" should be "and" in clause i. of claim 20.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3, 5-14, 16-20 and 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mackey (5,670,553). Mackey discloses or suggests the basic claimed method for molding a foam article including mixing (1) a fatty acid condensation product, (2) an IMR enhancer component (the carboxylic acid described beginning at column 3, line 33 may be viewed as an enhancer component), (3) an isocyanate, (4) a polyol, (5) a catalyst (column 8, line 55) and (6) a blowing agent (column 8, lines 26-36). Although Mackey appears not to be explicit concerning details of the molding operation itself, the examiner takes Official Notice that it is known to fill a mold with a polyurethane forming mixture, forming a molded foam article and removing the foam article from the mold.

Mackey discloses relative amounts of IMR enhancer (carboxylic acid) and fatty acid condensation product within the range of claim 17 at column 3, lines 56-59 and column 4, lines 27-31. Mackey discloses the use of an alcohol, as in claim 20, at column 4, line 55, and the use of pentaerythritol, as in claim 12, at the same column and

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line. Mackey teaches or suggests the use of constituents listed in claims 13 and 14. Mackey teaches or suggests the aspect of reacting a fatty acid condensation product with an isocyanate in the presence of an IMR enhancer compound, as in claims 7, 9 and 25, by stating at column 5, lines 33-35 by stating the carboxylic acid and fatty acid ester are generally not reacted prior to their addition to the B side of the reaction system, and Mackey also teaches the use of oleic acid, as in claim 5, and a reaction between a fatty acid and an alcohol, as in claims 10 and 11. Mackey discloses a molded foam article, as in claims 6, 19 and 24, and an enhanced internal mold release composition, as in claim 8. The examiner takes Official Notice that mineral oil is known to enhance IMR, as in claim 23. It is submitted that reduced force is required to remove the article of Mackey from the mold and that the article is not destroyed, as in claims 16, 18 and 26.

5. Claims 2, 4 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mackey as applied to claims 1, 3, 5-14, 16-20 and 22-26 above, and further in view of Clatty. The relevant teachings of Clatty and reason for their combination are as set forth in prior Office actions.

6. Applicant's arguments filed May 16, 2005 have been fully considered but they are not persuasive. Applicant's arguments are considered to be moot by the examiner based on the revised ground of rejection introduced in this Office action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allan Kuhns whose telephone number is (571) 272-

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1202. The examiner can normally be reached on Monday to Thursday from 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaiani, can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Allen R. Kuhns*

ALLAN R. KUHN  
PRIMARY EXAMINER AU 1732

8-20-05